

# **EXHIBIT B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON  
TALCUM POWDER PRODUCTS  
MARKETING, SALES  
PRACTICES, AND PRODUCTS  
LIABILITY LITIGATION**

MDL No. 16-2738  
Hon. Freda L. Wolfson  
Magistrate Judge Lois H. Goodman  
Case No.: 3:16-md-02738-FLW-LHG  
[ORAL ARGUMENT REQUESTED]

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**DECLARATION IN SUPPORT OF THE FERRARO LAW FIRM, P.A.’S  
MOTION FOR RELIEF FROM COMMON BENEFIT FEE ASSESSMENTS**

David A. Jagolinzer declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a shareholder at the Ferraro Law Firm, P.A. (hereafter, “Ferraro Law”). I am counsel of record for Ferraro Law in this Court and in state courts for clients with claims against Johnson & Johnson (hereafter, “J&J”) and/or Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. (hereafter, “J&J Consumer”) (collectively, “J&J Defendants”)<sup>1</sup> that have been resolved or are currently pending. I am licensed and in good standing to practice law in Florida, Massachusetts, New York, Illinois, and the District of Columbia.

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<sup>1</sup> Unless otherwise specified, all capitalized terms in this Declaration have the same definition provided in Ferraro Law’s Memorandum of Law in Support of its Motion for Relief from Common Benefit Fee Assessments filed simultaneously herewith.

2. I have personal knowledge of the facts and circumstances I describe below, and I submit this declaration in support of Ferraro Law's Motion for Relief from Common Benefit Fee Assessments filed simultaneously herewith.

3. Ferraro Law settled the following 24 cases from its inventory of cases:

	<b>Case Style</b>	<b>Case No.</b>	<b>Filed/Unfiled</b>
1.	Pamala Rylas v. Johnson & Johnson, et al.	18-CA-030244	11th Judicial Circuit, Miami-Dade County, FL
2.	Ann Minter v. Johnson & Johnson, et al.	19-cv-17415	Filed in MDL
3.	Marie Palmer v. Johnson & Johnson, et al.	21-cv-05455	Filed in MDL
4.	Marie Ryan v. Johnson & Johnson, et al.	20-cv-10272	Filed in MDL
5.	Nina Stein v. Johnson & Johnson, et al.	20-cv-00056	Filed in MDL
6.	Madeline Tidwell v. Johnson & Johnson, et al.	21-cv-11806	Filed in MDL
7.	Delphia Clark v. Johnson & Johnson, et al.	21-cv-02081	Filed in MDL
8.	Katherine Kitchens v. Johnson & Johnson, et al.	21-cv-10452	Filed in MDL
9.	Susan Kubiak v. Johnson & Johnson, et al.	20-cv-14741	Filed in MDL
10.	Cristina Belden v. Johnson & Johnson, et al.	19-cv-17411	Filed in MDL
11.	Debra Bennetti v. Johnson & Johnson, et al.	21-cv-05850	Filed in MDL
12.	Carolyn Britt v. Johnson & Johnson, et al.	21-cv-02312	Filed in MDL
13.	Donna Engers v. Johnson & Johnson, et al.	21-cv-02336	Filed in MDL
14.	Ruby Herndon v. Johnson & Johnson, et al.	21-cv-02108	Filed in MDL

15.	Catherine Musseau v. Johnson & Johnson, et al.	20-cv-14752	Filed in MDL
16.	Renee Warren v. Johnson & Johnson, et al.	21-cv-02179	Filed in MDL
17.	Patricia Chrisley v. Johnson & Johnson, et al.	19-cv-13413	Filed in MDL
18.	Arlene Gulkis v. Johnson & Johnson, et al.	20-cv-00061	Filed in MDL
19.	Gloria Portal v. Johnson & Johnson, et al.	21-cv-13182	Filed in MDL
20.	Paula Carras v. Johnson & Johnson, et al.	21-cv-02078	Filed in MDL
21.	Shannon Richards v. Johnson & Johnson, et al.	19-cv-17803	Filed in MDL
22.	Heather Williams v. Johnson & Johnson, et al.	20-cv-13150	Filed in MDL
23.	Christine Buheit v. Johnson & Johnson, et al.	19-cv-17419	Filed in MDL
24.	Dianne Collins		Unfiled

4. The 24 cases Ferraro Law settled from its inventory of cases against the J&J Defendants were not administered by, approved by, or in any way under the control of Lead Counsel in this MDL.

5. Ferraro Law settled those 24 cases without any input or assistance from Lead Counsel in this MDL.

6. During Ferraro Law's and the J&J Defendants' settlement negotiations, Ferraro Law and the J&J Defendants' counsel never discussed a common benefit fee assessment. The terms of the settlements that Ferraro Law negotiated with the J&J Defendants also did not include any duties or obligations pertaining to the MDL or any pending state court actions (other than dismissal of any associated lawsuits).

7. Ferraro Law pursued its clients' claims against the J&J Defendants underlying each of those settlements without any input or assistance from Lead Counsel in this MDL.

8. Indeed, on or about December 18, 2020, I contacted Co-Lead Counsel, P. Leigh O'Dell with Beasley Allen by phone to seek an introduction to two expert witnesses – Dr. Ghassan Saed and Laura Plunkett. I sought that introduction so that I and my colleagues could, at a minimum, consult with each expert in support of assessing our clients' claims, and otherwise preparing their cases for trial.

9. Ms. O'Dell informed me that she would not connect me or my colleagues to Dr. Saed or Ms. Plunkett.

10. Ms. O'Dell further advised that she would tell Dr. Saed and Ms. Plunkett not to speak to me or any of my colleagues at Ferraro Law if we contacted Dr. Saed or Ms. Plunkett independently.

11. Ms. O'Dell did not consult with her Co-Lead Counsel before denying my request for an introduction to Dr. Saed and Ms. Plunkett.

12. Ms. O'Dell did not provide any justification or explanation for denying my request for an introduction to Dr. Saed and Ms. Plunkett at the time we spoke on or about December 18, 2020.

13. Ms. O'Dell did not provide or offer any alternative options to me or my colleagues, including referrals to other potential experts.

14. Ms. O'Dell did not offer or consider any alternative options to denying my request, including participating in any conferences I or my colleagues at Ferraro Law may have scheduled with Dr. Saed and/or Ms. Plunkett.

15. I reviewed with Ms. O'Dell Ferraro Law's trial and appellate records, which demonstrate Ferraro Law's extensive experience under Florida law pertaining to the admission of expert testimony, including resulting in controlling case law from the Florida Supreme Court regarding the evidentiary standard for expert witnesses under Florida law. *See, e.g., Castillo v. E.I. DuPont De Nemours & Co., Inc.*, 854 So. 2d 1264 (Fla. 2003) (pertaining to admissibility of expert testimony under the *Frye* standard); *see also Delisle v. Crane Co.*, 258 So. 3d 1219 (Fla. 2018) (analyzing both the *Frye* and *Daubert* standards, and reaffirming the *Frye* standard as the standard governing expert admissibility under Florida law).

16. I believe Ms. O'Dell may have denied my request for an introduction to Dr. Saed and Ms. Plunkett because, despite my firm's ample experience, either Ms. O'Dell did not want to expend the effort to facilitate the introduction, or she wanted to limit and control the experts' relationships with attorneys in this MDL to justify her and Beasley Allen's later exorbitant claim to attorneys' fees in this MDL.

17. The J&J Defendants have indicated they will retain 12% of the proceeds of the settlements they negotiated with Ferraro Law described herein until such time as Lead Counsel confirms to the J&J Defendants in writing that they could either

release all those funds to Ferraro Law or hold back a lesser amount pursuant to CMO No. 7(A). As of the date of this filing, neither Ms. O'Dell nor any other Lead Counsel in this MDL have responded to J&J's counsel with their position as to whether any amounts must be withheld from Ferraro Law's recent settlements as common benefit fee assessments. Neither Ms. O'Dell nor any other Lead Counsel have otherwise confirmed to J&J's counsel what percentage of the proceeds should be withheld from those settlements.

18. Despite Ms. O'Dell's desire to represent the interests of Plaintiffs in this MDL, Ms. O'Dell has been unresponsive and has failed to timely respond to me with respect to the issues described in this declaration and Ferraro Law's Motion.

Dated: December 10, 2021

s/ David A. Jagolinzer  
David A. Jagolinzer